



TEXAS STATE BOARD REPORT

AUGUST, 1982

AUSTIN, TEXAS

VOL.9

MANDATORY CONTINUING EDUCATION RULES ADOPTED

At the July meeting, the Board adopted an amended version of the proposed CE rules summarized in the February BOARD REPORT. The major amendments deal with the mandatory attendance requirement.

Briefly, the rules require **all licensees to report** CE hours accrued beginning with the 1983 license year. **All licensees in public practice will attend** CE courses effective with the 1985 license year, **but subject to the condition outlined in (a)(2) below.**

The rules as adopted are:

CHAPTER 524. MANDATORY CONTINUING EDUCATION

Section 524.1 Establishment of Mandatory CE Program

(a) A mandatory CE program is hereby established pursuant to Section 6(a) of the Public Accountancy Act of 1979, as amended (Article 41a-1, V.A.T.S., the Act), which stipulates in part that "The Board may adopt a system of required continuing education for licensees to assure that the licensees remain informed of changes in the field of accountancy."

(1) All licensees are required to report CE hours accrued during the applicable reporting period as a condition for a 1983 or later license to practice public accountancy.

(2) All licensees in public practice are required to accrue and report a specified number of CE credit hours as a condition for a 1985 or later license to practice public accountancy, except that a program requiring mandatory attendance may not be put into effect until the Board by majority vote determines that the following condition has been met:

The establishment within the Board organization of a CE section headed by a qualified director and supported by adequate staff and facilities to afford a viable and positive program of review and enforcement, to the end that the program will lead to improved professional competence among persons licensed by the Board.

(b) Definitions

(1) Applicable courses. Courses which conform to the Board's standards, as identified in Chapter 523 of this title.

(2) CE credit hours. Fifty (50) minute contact hours which

conform to the Board's standards, as defined in Chapter 523 of this title.

(3) CE reporting period. September 1 through August 31 of the following year.

(c) The Board Chairman shall appoint a CE Committee consisting of at least three Board members and two licensees who are not Board members to assist and advise on the following CE matters:

(1) Implementation of the reporting and attendance requirements, to include establishment of appropriate staff and facility support functions.

(2) Consideration of applications for exceptions and grace period requests.

(3) Recommendations regarding disciplinary actions relating to the CE program.

(4) Recommendations regarding changes to Board rules, reporting forms, and procedures relating to the CE program.

(5) Consideration of other CE matters deemed appropriate by the Board.

(d) A licensee shall be responsible for insuring that CE credit hours claimed conform to the Board's standards as outlined in Chapter 523 of this title.

Section 524.2 Mandatory CE Reporting

(a) The Board shall issue licenses to those individuals who pay the required fees. In addition, as a condition for a 1983 or later license, a licensee shall report CE credit hours accrued during the applicable reporting period, even if the number is zero. A licensee who fails to report the CE credit hours accrued may have his/her license cancelled, after notice and hearing, as provided in Section 21 of the Act and in Section 524.4 of this chapter.

(b) A licensee shall report CE credit hours accrued on forms prescribed by the Board, to wit: license renewal notices or license notices. License renewal notices are normally mailed in November of each year, and license notices are mailed to those who receive certificates or registrations during the current year. Renewal or initial license notices shall contain a space for reporting the total number of CE credit

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hours accrued during the reporting period, and a space for entering information relating to the CE credit hours claimed. Appropriate instructions shall accompany the notices.

Section 524.3 Mandatory CE Attendance

(a) Mandatory CE attendance is required of any licensee engaged to any degree in the practice of public accounting as a condition for a 1985 or later license. The practice of public accounting is defined in the Rules of Professional Conduct as "Performing or offering to perform for a person, one or more types of services requiring accounting or auditing skills, including the use of such skills in preparing tax returns or providing advice on federal, state and other tax matters, or performing or offering to perform management advisory or consulting services or any other service performed by professional accountants for the public."

(b) An annual license is subject to cancellation for an individual in public practice who fails to accrue and report CE credit hours in accordance with the following schedule:

(1) 1985 License — a minimum of 20 CE credit hours during the period of September 1, 1983 — August 31, 1984, or a minimum of 40 CE credit hours during the two-year period of September 1, 1982 — August 31, 1984. *Exception:* An initial licensee is required to accrue 1.66 CE credit hours per month for the months licensed.

(2) 1986 License — a minimum of 40 CE credit hours during the period of September 1, 1984 — August 31, 1985, or a minimum of 80 CE credit hours during the three-year period of September 1, 1982 — August 31, 1985. *Exception:* an initial licensee is required to accrue 3.33 CE credit hours per month for the months licensed.

(3) 1987 License — a minimum of 40 CE credit hours during the period of September 1, 1985 — August 31, 1986, or a minimum of 120 CE credit hours during the three-year period of September 1, 1983 — August 31, 1986. *Exception:* an initial licensee is required to accrue 3.33 CE credit hours per month for the months licensed.

(4) 1988 or Later License — a minimum of 40 CE credit hours during the current reporting period, or a minimum of 120 CE credit hours during the three most current reporting periods, *with at least 20 CE credit hours during the current reporting period.* *Exception:* an initial licensee is required to accrue 3.33 CE credit hours per month for the months licensed.

(c) A former licensee, whether or not in public practice, whose certificate or registration shall have been revoked for failure to pay the annual license fee for three consecutive years and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue a minimum of 120 CE credit hours during the three-year period immediately preceding the date of application for reinstatement. Following reinstatement, a licensee shall conform to mandatory reporting and/or mandatory attendance requirements as outlined herein.

(d) Individuals who do not accrue and report the required minimum CE credit hours may file an affidavit for a 90-day grace period. The Board adopts by reference Affidavit Form

CE-1. This form is published by and available from the Texas State Board of Public Accountancy or from the Texas Register Division of the Office of the Secretary of State.

(1) If the Board determines there is good cause for the deficiency, a licensee shall make up the deficiency during the grace period or have his or her annual license subject to cancellation. Hours accrued for the purpose of making up a deficiency shall not be counted toward the next period's CE requirement.

(2) If the Board determines there is not good cause for the deficiency, a licensee shall be so advised and his or her annual license shall be subject to cancellation after notice and hearing.

(e) The Board adopts by reference Non-compliance Form CE-2. This form is published by and available from the Texas State Board of Public Accountancy or from the Texas Register Division of the Office of the Secretary of State. Form CE-2 shall be mailed by the Board to individuals whose CE credit hour reports on license renewal forms indicate non-compliance with CE credit hour requirements.

(f) The Board may grant exceptions from the mandatory CE attendance requirement as follows:

(1) If a licensee elects to pay the license fee for "retired status" and signs a certificate on the annual renewal notice indicating an age of 66 years or older on January 1 and an intent not to practice public accountancy during the following calendar year.

(2) If a licensee is retired, regardless of age, and completes and forwards to the Board an affidavit indicating retirement status and an intent not to practice public accountancy during the following calendar year.

(3) If a licensee shows reasons of health, certified to by a medical doctor, that prevent compliance with the CE requirement. A licensee must petition the Board for the exemption and provide documentation that clearly establishes the period of disability.

(4) If a licensee is on extended active military duty, does not practice public accountancy during the reporting period, and files a copy of orders to active military duty with the Board.

(5) If, upon petition to the Board, a licensee is granted on an individual case-by-case basis, an exemption from CE attendance for reasons considered by the Board to warrant an exemption.

The Board may not grant exemptions from the requirement to report CE credit hours accrued. A licensee must report CE credit hours accrued on the annual license renewal form, even if the number reported is zero.

Section 524.4 Disciplinary Actions Relating to CE

(a) A licensee who fails to comply with the provisions of Sections 524.2 or 524.3 may be subject to disciplinary action under Section 21 of the Public Accountancy Act of 1979, as amended, for violation of Section 501.25 of the Rules of Professional Conduct, which requires compliance with Sections 524.2 and 524.3 by a licensee in public practice, and compliance with Section 524.2 by licensees not in public practice.

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(b) A licensee shall retain documents or other evidence supporting CE credit hours claimed for at least three years subsequent to the date the credit hours are reported to the Board, but shall submit the supporting evidence to the Board only if such data is specifically requested.

(c) The Board shall, as deemed appropriate, audit CE data supplied by a licensee and request that all evidence supporting CE credit hours claimed be provided to the Board within a reasonable period of time as prescribed by the Board.

(d) Evidence of falsification, fraud, or deceit in the CE information or documentation supplied may necessitate disciplinary action as authorized in the Act. □

From The Chairman...

As reported, the Board has passed rules implementing a program of mandatory CE reporting by all licensees, and mandatory attendance – in the future and subject to certain conditions – by licensees in public practice.

A great deal of thought and discussion preceded this decision. The Board was aware, for example, that many CPAs and Public Accountants who are not in public practice favored mandatory attendance by *all* licensees. The Board discussed this option, but several overriding considerations pointed away from an all-encompassing attendance requirement.

Firstly, the Board's major consideration – the protection of the public – would not necessarily be served by mandating CE attendance for individuals not directly providing accounting services to the public. Secondly, mandatory attendance for those in public practice does not preclude participation by all licensees, but neither does it impose undue hardship upon individuals in industry, government, and education who find it impractical or impossible to attend CE courses on a regular basis.

An important condition incorporated in the rules pertains to administrative and control procedures. Attendance at CE courses will not be required until such time as the Board staff is sufficiently manned and funded to insure that CE attendance will result in improved professional competence among licensees. The CE Committee, composed of at least three Board members and two licensees who are not Board members, will greatly assist in the timely implementation of mandatory CE attendance. The Committee will, of course, also oversee the enforcement and disciplinary portions of the rules. In this regard, the Board was careful to insure that individuals who fail to meet attendance requirements will be provided ample opportunity to comply. The licensee is insured of due process prior to disciplinary action.

The reporting requirements necessitate the forwarding to the Board of detailed data re CE courses attended. This information should prove invaluable both to the CE Committee and to future Boards. I am confident that the rules, when fully implemented, will result in benefit to both the public and the profession.

Oscar E. Reeder
Chairman

MEETINGS

Texas State Board of Public Accountancy:

September 23-25, 1982
October 21-23, 1982
November 12-13, 1982
January 27-29, 1983

National Association of State Boards of Accountancy:

September 12-15, 1982 75th Annual Meeting
San Diego, California

CPA Swearing-in Ceremony:

November 13, 1982 Austin, Texas
May 14, 1983 Austin, Texas

NOVEMBER, 1982 EXAM SCHEDULE

The schedule for the November, 1982, Uniform CPA Examination is as follows:

Examination Sites

Austin	Lester E. Palmer Auditorium
El Paso	The University of Texas at El Paso Special Events Center
Fort Worth	Tarrant County Convention Center
Galveston	Moody Convention Center
Lubbock	Lubbock Civic Center
San Antonio	San Antonio Convention Center
Wichita Falls	Wichita Falls Activities Center

Examination Times

Nov. 3 – 1:30 p.m. to 6:00 p.m.
Accounting Practice, Part I

Nov. 4 – 8:30 a.m. to 12:00 Noon
Auditing
1:30 p.m. to 6:00 p.m.
Accounting Practice, Part II

Nov. 5 – 8:30 a.m. to 12:00 Noon
Business Law
1:30 p.m. to 5:00 p.m.
Accounting Theory

The deadline for submission of applications to sit for the November exam is September 1, 1982. Grades from the May, 1982, exam were released August 2, 1982.

SUBSTANTIVE RULES

Final Adoption

At the July meeting, the Board finally adopted:

- 1) **Rule 524, Mandatory Continuing Education** (see pages 1 and 2)
- 2) **Amendment to Rule 501.45, Competitive Bidding** (see May BOARD REPORT)
- 3) **Rule 501.50, Quality Control Reviews**

“(a) In order to protect the confidentiality of privileged information held by a licensee during the course of a quality control review or peer review of the licensee’s practice, each such quality control review shall be preceded by a written agreement which provides, at a minimum:

(1) That the quality control review will be conducted only by individuals, groups, or firms who are licensees under this Act or who hold a temporary permit issued by the Board;

(2) That the individual, group, or firm conducting the review (the Reviewer) is obligated to the licensee being reviewed and to the clients of the licensee being reviewed to maintain the confidentiality of all confidential client information;

(3) That all information which identifies or could lead to the identification of a client of the licensee being reviewed shall not be transmitted to any person without having been reviewed and approved for release by the licensee being reviewed;

(4) That all questions as to the transmission of particular client information which cannot be agreed upon by the Reviewer and the licensee being reviewed shall be resolved by the client or clients involved.

(b) Confidential client information acquired by any licensee or temporary permit holder in the course of conducting a quality control review shall be protected by that licensee or temporary permit holder just as if it were confidential information of his own client; and shall be subject to the same rules of disclosure. A disclosure of information to the Board for the purposes of a disciplinary complaint or disciplinary investigation shall not constitute an impermissible disclosure of confidential information.”

Proposed

The following proposed rules or changes to rules have been adopted by the Board:

- 1) **Chapter 501, Professional Conduct, Section 501.25, Mandatory Continuing Education**, is new and reads: “(a) A licensee engaged in the practice of public accountancy shall comply with Section 524.2 of this title relating to mandatory continuing education reporting and Section 524.3 relating to mandatory continuing education attendance. (b) A licensee not engaged in public practice shall comply with Section 524.2 relating to mandatory continuing education reporting.”
- 2) **Section 501.3 Applicability**, has been amended to include “Section 501.25 of this title, relating to mandatory continuing education” as a rule that shall apply to and be required to be observed by licensees not in public practice.
- 3) **Section 523.8, Credits for Published Articles and Books**, is new and reads: “CE credit may be claimed for published articles and books provided they contribute to the professional competence of the licensee. Credit hours for preparation of such publications may be claimed up to ten (10) hours in any CE reporting period. In exceptional circumstances, a licensee may submit a request to the Board for additional credit. The request should be accompanied by a copy of the article(s) or book(s) and an explanation justifying the request for additional CE hours.”
- 4) **Section 511.52, Recognized Colleges and Universities**, has been amended to change “The University of Texas at Austin” to “the Reporting Institution in the State of Texas” (which is The University of Texas at Austin, but which could change to another institution).
- 5) **Section 511.23, Submission of Application**, has been amended to change the deadline for filing applications to sit for the November and May examinations from the first day of September and March to the last day of August and February, effective with the deadline for the May, 1983, examination. □

ORIENTATION AND CRITIQUE PROGRAM

Another name change has retitled the original examination “critique” as the “CPA Examination Orientation and Critique Program.” As reported in the February issue of the BOARD REPORT, the April critique was called the “CPA Exam Preparedness Program.”

The Fall orientation and critique will be open to all candidates who are preparing for the examination and will be conducted on October 16 in Dallas, Houston, Lubbock, and San Antonio.

Detailed information has been mailed to both initial and reexam candidates. □

EXAM PROCTORS

In response to the request for proctors in the May BOARD REPORT, a number of licensees have volunteered to assist during the November examination. Many more proctors are needed, however, if an effective examination is to be conducted.

All licensees interested in assisting the Board in this important function are asked to contact the Chairman of the Examination Committee of local Texas Society of CPA Chapters, or DONNA MEREDITH, Board Examination Coordinator. □

Letters to the Editor

Dear Jane:

I was both amused and amazed by the recent letter submitted by a Houston CPA who advocated *public* accounting experience be used as a prerequisite for a certificate. Among other statements, he wrote that he does not believe that "... an equivalent to the public accounting experience can possibly be obtained in private industry." I would agree that it's not the *same*, but depending upon the company or corporation, the private industry experience could be far better!

The statement which bothered me the most notes that it is the exposure to many industries and clients that "separates the accountant with imagination and the ability to adapt to our changing business environment from the accountant who's seen only one side of our multi-faceted profession." There are many fine companies which have diversified operations and make it a practice to rotate many of their key managers to other areas and in so doing just "might" expose these individuals to other industries.

Many states simply require two years of public accounting experience. These two years conceivably could be 24 months of counting inventory in one industry or performing bank audits. Would this experience be better than the skills required, practical knowledge obtained and wisdom gained by an individual serving in the capacity of Controller of a Fortune 500 Company? What about the responsibility placed upon an individual who must both supervise in excess of 100 individuals and assist in the management of the company?

A blanket requirement of public accounting experience would do a disservice to many excellent accountants who deserve the honor and distinction of becoming a CPA.

David C. Boehm, CPA, Hanover, Mass.
(formerly of Arlington, Texas)

Dear Jane:

I just read the May BOARD REPORT and take issue to Mr. Hothem's letter concerning the requirement for public accounting experience as a prerequisite for certification. Today's CPA in industry must be an auditor, tax specialist, SEC specialist, MIS specialist, investment analyst, and control expert, as well as a well-rounded general accountant. In most private industries, an individual can get exposure to almost every facet of accounting. There is a lot more to real world, or "public," accounting than just auditing or preparing a tax return.

The most important aspect of the experience requirement is not where the experience is obtained, but what the experience is. The current experience requirement handles this very well, so a requirement for public accounting experience as a prerequisite for certification is both unjustified and unnecessary.

Richard Mathews, CPA, Fort Worth

Dear Mrs. Johnson:

My apologies for not writing to you sooner, but I want you, as staff ceremony coordinator, and the officers of the Board to know of my appreciation of the effort that all of you made to make the Swearing-in Ceremony in May a meaningful experience. The ceremony was an inspiration to me and one I remember with pleasure. I think it is an appropriate way to begin as a professional accountant and hope you will continue the ceremonies for future candidates.

Thank you again.

Wayne E. Gifford, CPA, Richardson

Please address letters to **Jane I. Johnson**, Editor, TEXAS STATE BOARD REPORT, Texas State Board of Public Accountancy, 3301 Northland Drive, Suite 500, Austin, Texas 78731.

ATTORNEY GENERAL OPINION – CONFIDENTIALITY OF CANDIDATE DATA

The Board receives numerous requests for name and address lists of licensees and candidates. A recent request differed somewhat in that it asked for the names and addresses of candidates *who had been successful* on the prior examination.

Because the Board was of the opinion that Section 25 of the Act clearly prohibits such a release of names and addresses (naturally, such a list would also divulge who had not been successful), an Attorney General opinion was requested. The Attorney General's letter opinion dated April 28, 1982, indicated that on the authority of prior opinions, the "names of successful candidates . . ." may be released, but the addresses of candidates constitute confidential information. The opinion indicated, additionally, that while names of candidates *qualifying to sit* for the examination may be released, addresses constitute confidential information.

The requested information was not released. As a result, the Becker CPA Review Course of California has filed suit against the Board for release of candidates' names *and* addresses. The citation, which was served at the Board office, was referred to the Attorney General, who filed "Defendants' Original Answer" on July 27, 1982. Results of the court action will be discussed in a later issue of the BOARD REPORT. □

STATISTICS

MAY, 1982 SWEARING-IN CEREMONY

Number of candidates invited	1,035
Number of candidates attending	607 (58%)
Guests attending	2,125

LICENSING

	Active		Total Active	Prior Year
	Male	Female		
CPAs	20,681	4,006	24,687	22,809
Public Accountants	421	37	458	678
Section 14	65	8	73	69
Partnerships			571	571
Corporations			628	492

EXAMINATION

	Nov., 1981	May, 1982
Total applications processed	9,371	10,244
Total applicants who sat	8,127	8,877
Initial candidates	2,256	3,017
Reexam candidates	5,831	5,812
Transfers	40	48

Breakdown by parts	Nov., 1981		May, 1982	
	Pass	Fail	Pass	Fail
Auditing	1,667	4,356	1,680	4,788
Law	1,570	4,145	1,644	4,460
Theory	1,428	4,311	1,685	4,689
Practice	1,355	3,994	1,492	4,397

Candidates sitting per site – May, 1982

Austin	1,012
El Paso	200
Fort Worth	2,901
Galveston	1,686
Lubbock	727
San Antonio	2,066
Out of State	285
	<u>8,877</u>

Candidates who sit for the CPA examination are asked to complete an "information analysis" which includes questions re academic

background, examination preparation, work experience, prior examinations taken, and such personal data as age. The purpose of gathering the information is to evaluate candidate performance and determine what correlation, if any, exists between performance on the examination and such variables as age, grade point average, time between graduation and sitting for the examination, hours in accounting subjects, university attended, etc. Information submitted is confidential to the extent that candidate names are not identified with the data.

Over the past ten years, various methods of compiling statistics accumulated have been employed. The American Institute of CPAs (AICPA) gathered information in 1970, 1975, and 1980, and the 1970 and 1975 reports have been released. The Board has released reports on the November, 1976, and May, 1977, examinations.

At the July meeting, the Board contracted with Marcus Dunn, CPA, Ph.D., and Thomas Hall, CPA, Ph.D., The University of Texas at Arlington, to computerize, analyze, and compile data from the May and November, 1981, and May, 1982, examinations. When available, results will be published in the BOARD REPORT. □

CANDIDATE DATA TO BE COMPILED

PROPOSED 150-HOUR REQUIREMENT

In June, 1981, the Board passed a Resolution endorsing in principle a requirement of 150 hours of education to sit for the examination, and adopted as a 1983 legislative goal the required changes in the Act.

Since that time, the Board has explored various implications inherent in such a requirement. A recent Board letter to Texas colleges and universities requested answers to specific questions regarding the 150-hour proposal. A majority of the Accounting Department Chairmen who responded indicated that:

- their universities currently provide programs to meet a 150-hour requirement,
- if the 150-hour proposal is adopted, a requirement for more than 30 hours of accounting to sit for the examination would be favored, and
- the proposed amendment would not unduly restrict entry into the accounting profession.

About 50% supported the concept of separate schools of accountancy.

The Board will continue to study the proposed requirement. □

ENFORCEMENT

Reinstatements

The following applications for reinstatement of certificate were approved at the July meeting:

Leon Feldt – effective immediately.

Lee Roy Brown – effective August 28, 1982.

Harvey L. Ribble – effective August 28, 1982.

The following application for reinstatement of registration as a professional corporation was approved at the July meeting:

Brown and Ribble, P.C. – effective August 28, 1982.

Disciplinary Actions

Respondent: Davis, Jacob Daniel (Certificate No. 8105)

Date of Panel Hearing: April 19, 1982

Panel Ruling: The Panel found that Respondent signed an opinion letter relating to financial statements of an entity which failed to disclose departures from generally accepted accounting principles (GAAP) as follows: (1) the report failed to disclose that notes receivable listed as a current asset were recorded for the issue of original stock, and (2) the report failed to disclose that a prepaid expense listed as a current asset was recorded for the issue of stock in exchange for services rendered or to be rendered. The Panel also found that, at the time the report in question was signed, Respondent was acting as an attorney for the entity reported on. Further, the Panel found that Respondent has been disbarred from practice as an attorney by virtue of commingling funds and failure to account to clients for monies received in settlement of claims on their behalf. Finally, the Panel found Respondent failed to respond on request to Board communications sent by certified mail within thirty days. The Panel concluded that Respondent's failure to comply with generally accepted auditing standards by failing to disclose departures from GAAP outlined above violated Rule 202 of the Rules of Professional Conduct; that Respondent's expression of an opinion on the financial statements of an entity where independence was impaired by Respondent's acting as an attorney for the entity violated Rule 101 of the Rules of Professional Conduct; that Respondent's disbarment for practice as an attorney in Arizona constituted grounds for disciplinary action under Section 21(b)(8) of the Public Accountancy Act of 1979 (V.A.T.S.); and that Respondent's failure to respond to Board communications violated Rule 408 of the Rules of Professional Conduct. Accordingly, the Panel recommended that the Certificate of Respondent be revoked. The Panel's recommendation was ratified by the Board on July 30, 1982.

CONSTRUCTIVE ENFORCEMENT PROGRAM

The following characteristics of the Texas Constructive Enforcement Program were adopted at the July meeting:

- The public interest shall always be the controlling consideration.
- The program shall be primarily remedial in approach, but punitive to the extent required by the public interest.
- The Board shall receive, investigate, evaluate, and act appropriately on *all* alleged or suspected violations coming to the Board's attention from any source.
- The Board shall respect the due-process rights of all persons.
- The program shall be informational and educational, including issuance of advance, informal rulings and advice when appropriate in the judgment of the Board.
- The program shall include regular publication in the *TEXAS STATE BOARD REPORT* of information on enforcement activities of the Board, including summary reports of disciplinary hearings.
- The program shall be administered with promptness and dispatch through use of informal conferences and hearings panels, in addition to other expeditious procedures as appropriate.
- The Board's conclusions shall always be arrived at in a manner to permit the conclusions to prevail in the event of appeal under the Substantial Evidence Rule. □

ENFORCEMENT ACTIVITY

April 30, 1982 – June 30, 1982

	<u>Rules</u>	<u>Act</u>	<u>Total</u>
Active files April 30, 1982	75	166	241
Files opened during period	<u>15</u> 90	<u>22</u> 188	<u>37</u> 278
Files closed during period	<u>10</u>	<u>24</u>	<u>*34</u>
Active files June 30, 1982	80	164	244

*20 via voluntary compliance, 12 via Board Orders, and 2 otherwise (unlicensed individuals who have ceased doing business, cannot be located, or died).

QUESTIONS AND ANSWERS

- Q. May a licensee withhold accounting records or other source documents belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account, in order to insure payment of a fee owed by the client?
- A. No, Rule 302A(3) requires the return upon request of all such source documents regardless of a pending fee dispute. Source: Rule 302A(3) [TAC Sec.501.32(a)(4)]

- Q. May a licensee withhold working papers that include work sheets in lieu of books of original entry, such as listings of cash receipts or disbursements, depreciation schedules, and adjusting journal entries with supporting detail, notwithstanding that the fee for the subject services remains unpaid?
- A. No, Rule 302A(4) requires the return upon request of a copy of a licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and *are not otherwise available to the client*. Source: Rule 302A(4) [TAC Sec. 501.32(a)(4)]

- Q. May a licensee engage in the business of selling tax sheltered annuities or individual retirement accounts where the licensee is compensated by means of a commission on the amount invested?
- A. No. The offer to perform services for a person which includes providing advice on federal tax matters places the

licensee in public practice for the purpose of the Rules of Professional Conduct. Rule 103 prohibits a licensee in public practice from accepting a commission for referral to a client of products or services of others. Source: Definition of "practice of public accountancy" [TAC Sec. 501.2 (11)] and Rule 103 [TAC Sec. 501.13]

Texas State Board Report

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